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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,439	07/18/2003	Udo J. Vetter	22570	4970

535 7590 08/17/2004

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EXAMINER

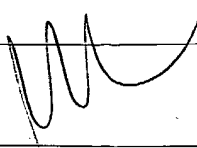
GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,439	<b>Applicant(s)</b> VETTER ET AL. 	
	<b>Examiner</b> Stephen Gravini	<b>Art Unit</b> 3749	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Liebert (US 5,439,643). Liebert is considered to disclose the claimed invention comprising:

confining the container in a pressurizable chamber (please see column 7 lines 1-27);

heating the container in the chamber and thereby changing a pressure in the compartment of the container (please see column 7 lines 9-16);

monitoring the pressure in the compartment of the container and generating an output corresponding thereto (please see column 7 lines 3-9 which discuss how temperature is directly proportional to pressure and column 7 lines 16-17 wherein the temperature is monitored such that the claimed pressure monitoring step is considered to be anticipated by the temperature/pressure monitoring disclosed in the primary reference); and

varying pressure in the chamber around the container so as to be generally equal to the monitored pressure in the compartment of the container (please see column 9

lines 48-56 wherein the disclosed package integrity maintenance is considered patentably equivalent to the claimed variable pressure monitor step); or

a pressurizable chamber **2** in which the container is confined;

pump means **6 & 9** for pressurizing the chamber;

means **5** for heating the container in the chamber and thereby changing a pressure in the compartment of the container;

means including a sensor for monitoring the pressure in the compartment of the container and generating an output corresponding thereto (please see column 7 lines 3-9 which discuss how temperature is directly proportional to pressure and column 7 lines 16-17 wherein the temperature is monitored such that the claimed pressure monitoring step is considered to be anticipated by the temperature/pressure monitoring disclosed in the primary reference); and

control means connected to the sensor and to the pump means for a varying pressure in the chamber around the container so as to be generally equal to the monitored pressure in the compartment of the container (please see column 9 lines 48-56 wherein the disclosed package integrity maintenance is considered patentably equivalent to the claimed variable pressure monitor step). Liebert is also considered to disclose the claimed plunger movement monitoring at column 10 lines 42-52.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 5-7, 10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebert in view of Fernald et al. (US 6,422,084). Liebert is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed optical reflection pressure sensor monitor. Fernald is considered to disclose an optical reflection pressure sensor monitor at column 16 lines 5-67 wherein the claimed light curtains are broadly and reasonably interpreted to include an optical sensor. It would have been obvious to one skilled in the art to combine the teachings of Liebert with the considered optical reflection pressure sensor monitor teachings found in secondary reference Fernald, for the purpose of accurately monitoring pressure changes by optically sensing a plunger movement during a pressure sensitive transaction.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebert in view of Taylor et al. (US 6,394,977). Liebert is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed plunger sensor distance monitor. Taylor is considered to disclose a plunger

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sensor distance monitor at column 7 lines 38-60. It would have been obvious to one skilled in the art to combine the teachings of Liebert with the considered plunger sensor distance monitor teachings found in secondary reference Taylor, for the purpose of accurately monitoring pressure changes by sensing a plunger movement during a pressure sensitive transaction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg  
August 16, 2004

